IN THE HIGH COURT OF JUDICATURE

ANDHRA PRADESH AT HYDERABAD.

HON'BLE SRI JUSTICE C.V. RAMULU

Writ Petition No.22138 of 1998

Dated: 23rd August 2005

Between:

M.V.Subba Rao … Petitioner

And

State of Andhra Pradesh, rep. By its
Secretary, Education Department,
Secretariat, Hyderabad and two others.
… Respondents

Oral Order:

1. This writ petition is filed seeking a mandamus to declare the proceedings Rc.No.3720/JC5-3/93 dated 3-1-1998 of the Director of Intermediate Education, Andhra Pradesh, Hyderabad as arbitrary and illegal and consequently to declare that the petitioner is entitled for regularization of his services as a Junior Lecturer in Mathematics in S.K.D.R.M. Junior College, Thurumella, Guntur District w.e.f. 6-12-1990.

2. It is the case of the petitioner that he joined the service of the third respondent—College as a part-time Lecturer in Mathematics w.e.f. 18-8-1986. When his services were not regularized, earlier he filed Writ Petition No.14803 of 1990 before this Court and the same was disposed of on 17-8-1994 with the following directions:

> In the above circumstances, I direct the third respondent to constitute a Committee in accordance with G.O.Ms.No.302, Education (CE I – 2) Department, dated 23-8-1991 to consider the case of the petitioner so as to judge his suitability to hold the post of Junior Lecturer in Mathematics in the 1st respondent—College. If he is selected, then his date of regularization shall be given from 6-12-1990. The above exercise shall be made within a period of three (3) months from the date of receipt of a copy of this order.

Though the case of the petitioner was considered in pursuance to the above order of this Court, by proceedings dated 3-1-1998, instead of regularizing the services of the petitioner from 6-12-1990, it was regularized w.e.f. 3-1-1998. According to the petitioner, in view of the orders passed in W.P.No.14803 of 1990 dated 17-8-1994 he is entitled for regularization w.e.f. 6-12-1990.

3. The orders passed in the above writ petition attained finality.

4. The learned counsel for the respondents has strenuously contended that in W.P.No.14803 of 1990 this Court directed to consider the case of the petitioner as per G.O.Ms.No.302, Education (CE I) Department, dated 23-8-1991 to constitute a Committee and decide the suitability of the petitioner to hold the post of Junior Lecturer in Mathematics in the third respondent—College.

5. If the petitioner is selected, then his date of regularization shall be given from 6-12-1990. It is not the case of the respondents that the petitioner was not selected. When once the petitioner is selected as per the order in the above writ petition, he is entitled for being absorbed on regular basis w.e.f. 6-12-1990.

6. The learned counsel for the respondents then contended that the direction of this Court in W.P.No.14803 of 1990 was to constitute a

Committee as per G.O.Ms.No.302 dated 23-8-1991 and to consider the case of the petitioner as to the feasibility of his absorbing him regularly. Therefore, any selection made under the procedure adopted in the said Government Order cannot be given retrospective effect. The learned counsel further submitted that in the impugned proceedings dated 3-1-1998 reasons have been given stating that the request of the petitioner to regularize his service with retrospective effect i.e., from 6-12-1990 is not feasible for compliance and the same cannot be said to be either arbitrary or illegal.

7. I am afraid, I cannot accede to the submissions made by the learned Government Pleader for Higher Education. The rights of the petitioner has already been decided in the earlier writ petition and it was categorically and in unambiguous terms stated that if the petitioner is selected as per the recommendations of the Committee constituted in accordance with G.O.Ms.No.302 dated 23-8-1991, then his date of regularization shall be given from 6-12-1990. In view of this definite wording used in the order in W.P.No.14803 of 1990, the impugned order saying that there is no feasibility of regularizing the services of the petitioner w.e.f. 6-12-1990 is nothing but over-reaching the judgment of this Court which attained finality. I am of the opinion that the impugned order passed by the respondents is liable to be set aside to the extent of conferring the regularization of services of the petitioner w.e.f. 4-1-1996 instead of 6-12-1990.

8. In the result, it is declared that the petitioner's services are regularized in the cadre of Junior Lecturer in Mathematics w.e.f. 6-12-1990. The writ petition is allowed to the extent indicated above. No order as to costs.

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(C.V. Ramulu, J)

23rd August 2005

svs